

LAW OFFICES OF RONALD A. MARRON

RONALD A. MARRON (SBN 175650)

ron@consumersadvocates.com

ALEXIS M. WOOD (SBN 270200)

alexis@consumersadvocates.com

KAS L. GALLUCCI (SBN 288709)

kas@consumersadvocates.com

651 Arroyo Drive

San Diego, California 92103

Telephone: (619) 696-9006

Facsimile: (619) 564-6665

Attorneys for Plaintiff and the Proposed Class

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

JENNIFER CHEN, individually and on
behalf of all others similarly situated,

Plaintiff,

v.

FLO HEALTH, INC.

Defendant.

Case No.: 4:21-cv-01485

**PLAINTIFF'S ADMINISTRATIVE
MOTION TO CONSIDER
WHETHER CASES SHOULD BE
RELATED**

COMPLAINT FILED: MARCH 2,
2021

Pursuant to Local Rule 3-12, Plaintiff Jennifer Chen files this administrative motion to consider whether case *Chen v. Flo Health, Inc.*, 4:21-cv-01485-KAW, should be related to cases *Frasco v. Flo Health, Inc.*, 3:21-cv00757-SK, *Wellman v. Flo Health, Inc.*, 4:21-cv-01099-KAW, and *Pietrzyk v. Flo Health, Inc.*, 3:21-cv-01141-SK. The *Frasco*, *Wellman*, *Pietrzyk*, and *Chen* matters are pending in this District. Cases are related when “(1) [t]he actions concern substantially the same parties, property, transaction or event; and (2) [i]t appears likely that there will be an unduly burdensome duplication of labor and expense or conflicting results if the cases are conducted before different judges.” L.R. 3- 12(a). Plaintiffs in all four of the above-referenced actions consent to this motion.

STATEMENT OF RELEVANT FACTS

The above-mentioned actions concern substantially similar parties, arise from the same set of facts, and assert similar causes of action. Specifically, Plaintiffs in all cases assert nearly identical claims against Defendant Flo Health Inc. (“Defendant” or “Flo Health”) and all seek to represent a class of users of Flo Health’s Flo Period & Ovulation Tracker (“Flo App” or “App”).

Plaintiffs allege that in order to use the Flo App, millions of users—including Plaintiffs and the Class—provide Flo Health with personally identifying information (e.g., their names, email addresses, dates of birth, and places of residence), along with intimate details about their sexual health, menstruation cycles, gynecological health, and physical well-being. Plaintiffs allege further that Defendant assured users in its privacy policy that it does not share this intimate personal information. However, these assurances were patently false: Flo Health had spent years disclosing the intimate health data that users entered into the Flo App to dozens of third parties, including major advertising companies such as Facebook, Inc. and Google, LLC, who were free to use this data for their own purposes.

1 Plaintiffs' overlapping claims against Flo Health include common law
 2 invasion of privacy – intrusion upon seclusion, breach of contract, breach of implied
 3 contract (in the alternative), unjust enrichment (in the alternative), violation of the
 4 Stored Communications Act (18 U.S.C. § 2702), and violations of the California
 5 Confidentiality of Medical Information Act.

6 ARGUMENT

7 In consideration of substantial similarities between the *Frasco*, *Wellman*,
 8 *Pietrzyk*, and *Chen* matters, judicial economy is best served if the cases are related.
 9 The Court, parties, their counsel, and witnesses will be able to conserve resources
 10 by avoiding duplicative discovery. In addition, with common issues of law and fact
 11 in all cases, the risk of inconsistent pre-trial rulings will be prevented if the cases are
 12 coordinated with one another and overseen by one judge.

13 CONCLUSION

14 Accordingly, *Frasco*, *Wellman*, *Pietrzyk*, and *Chen* should be related
 15 pursuant to Local Rule 3- 12, and the *Chen* matter should be reassigned to the
 16 Honorable Sallie Kim.
 17

18
 19 DATED: March 10 , 2021 Respectfully submitted,

20 /s/ Ronald A. Marron

21 Ronald A. Marron

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23 RONALD A. MARRON

24 *ron@consumersadvocates.com*

25 ALEXIS M. WOOD

26 *alexis@consumersadvocates.com*

27 KAS L. GALLUCCI

28 *kas@consumersadvocates.com*

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on March 10, 2021, I was authorized to electronically file the foregoing with the Clerk of Court using the CM/ECF system, which will send a Notice of Electronic Filing to all counsel of record.

/s/ Ronald Marron

Ronald Marron